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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,787	04/01/2004	Aharon Tavivian	004539.00016	4970

22907 7590 10/19/2004

BANNER & WITCOFF
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SUITE 1100
WASHINGTON, DC 20001

EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,787

Applicant(s)

TAVIVIAN, AHARON

Examiner

Huyen Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-11 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04/01/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The invention provides," etc.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Tavivian (WO 01/17411 A1).

The Tavivian reference discloses a variable angle connector profile for connecting a plurality of enclosure panels comprising a first end segment 16 having a first open channel 18 sized for receiving a first enclosure panel 12, a flexible middle segment 20 attached to the first end segment 16, and a second end segment 22 having a second open channel 24 sized for receiving a second enclosure panel 12, all three segments being co-extruded as a single integral linear unit, the first and second end segments 16,22 including surfaces adapted to abut each other and to delimit the extent of the segments towards each other in a first sense of swivel from a linear alignment of 180 degrees to a substantially perpendicular alignment of about 90 degrees, wherein

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one of the open channels includes a plurality of flexible projections extending into the open channel from each of the inner surfaces of the sidewalls of the open channel.

All functional statements of the intended use have been carefully considered but deemed not to impose any structural limitations on the claims distinguishable over the connector of WO 01/17411 which is capable of allowing the first and second segments to move repeatedly in a second opposite sense of swiveling away from the 1800 degrees linear alignment and away from abutting surfaces to form a reflex angle for accordion-like folding, storage and transportation.

Regarding claim 2, the middle segment is made of flexible polyvinyl chloride (PVC) and the end segments are made of semi-rigid PVC.

Regarding claim 3, the middle segment is made of flexible polypropylene and end segments are made of semi-rigid polypropylene.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavivian (WO 01/17411 A1).

Although Tavivian reference does not specifically disclose the operating life of the middle segment in excess of 10,000 bend cycles, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a middle

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segment having operating bend cycles to optimize its life and performance, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ (CCPA 1980).

6. Claims 6 and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Tavivian (WO 01/17411 A1).

Although the Tavivian reference does not explicitly disclose the thickness, the width and the length of the middle segment, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select a thickness within a certain range to best fit a particular (lipstick tube) design and to optimize the performance. See In re Aller, 105 USPQ 233, using the optimum or workable ranges involves only routine skill in the art.

7. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavivian (WO 01/17411 A1).

Although Tavivian reference does not specifically disclose the tensile strength, elongation property and brittle point of the middle segment, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a middle segment having a certain properties to optimize its performance, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ (CCPA 1980).

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Allowable Subject Matter

8. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 12 is allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Carmichael, Stoffle et al, Francis, Jr. et al, Woodland Holbolt et al and Stevens, Jr. references show connectors for panels.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504.

The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

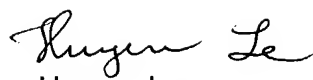
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in cursive script, appearing to read 'Huyen Le'.

Huyen Le

Examiner

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HL

October 18, 2004